HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.23550 of 2007

6.11.2007

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Between

Koppula Huzur ..Petitioner

AND

The Special Deputy Collector (Tribal Welfare), Polavaram and another ..Respondents

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:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.23550 of 2007

This writ petition has been instituted complaining the inaction of the first respondent in not proceeding with the application submitted by the writ petitioner on 10.10.2007 wherein he solicited a certificate to be issued to him that the land situate in R.S.No.70/1 of an extent of Ac.6.27 cts., at Mulagalampalli Village and in R.S.No.59/1 of an extent of Ac.3.59 cents and in R.S.No.59/2 of an extent ofAc.2.39cents situated at Routhgudem Village do not belong to the tribals.

The learned Assistant Government Pleader for Social Welfare has pointed out that the Special Deputy Collector will certainly examine the matter on its merits and pass appropriate orders at the earliest. I have also no doubt that the first respondent will entertain the said Application and decide the same on or before 31.12.2007 and pass appropriate orders and communicate the same to the petitioner.

With this, the writ petition stands disposed of. No costs.

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NOOTY RAMAMOHANA RAO.J.

7.11.2007
psr

23571 of 2007

Heard the learned Government Pleader for Home and with his consent, the following order is passed.

The petitioner who is said to be managing a theatre by name Sony Raj ======= Air Conditioned at Raichoti in Kadapa District solicited renewal of the B Form licence to enable to carry on the business of exhibiting motion pictures in the theatre. There appears to be certain misunderstandings amongst the various co-owners/ partners in the Firm and consequently, the fourth respondent appears to have solicited permission for closing down the theatre for a period of two weeks ====== to attend to the sanitary conditions prevailing in the theatre.

The learned counsel for the writ petitioner points out two aspects. Firstly, the District Medical and Health Officer is the competent authority for the purpose of reporting about the sanitary conditions prevailing in cinema theatres in terms of Rules 8 to 10 of the Andhra Pradesh Cinema (Regulation) Rules, 1970++++++++ and it cannot be reported by the Tahsildar/ Mandal Revenue Officer concerned. Further, the District Medical and Health Officer, Kadapa has already reported on 26.9.2007 that the cinema theatre in question has got decent conditions of sanitation available and therefore, he has filed his report suggesting the renewal of the licence for a further period. But however, the Tahsildar/ Mandal Revenue Officer appears to have submitted to the District Collector on 29.10.2007 stating that the theatre may be closed down for a period of two months to carry out

the minor repairs for the sanitary infrastructure available in the theatre.

The learned counsel for the petitioner apprehends that the competent authority including the District Collector, Kadapa is likely to be guided by the report submitted by the Tahsildar, Raichoti====== on 29.10.2007 and that it did not contain the relevant and truthful facts. On the contrary, the District Medical and Health Officer who is the competent authority had already inspected and upon being satisfied filed the report suggesting the renewal of the licence.

It is needless to observe that the District Collector, Kadapa or even the licencing authority would not allow any extraneous matters or considerations to prevail on them before taking a decision with regard to the renewal of the B Form licence and I have no reason to suspect that they will not get guided by the certificate issued by the District Medical and Health Officer, Kadapa insofar as the sanitary facilities put in place in the theatre are concerned. I therefore do not propose to examine this issue any further and hence, with this observation, the writ petition is disposed of. No costs.

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23744 of 2007

This writ petition which has been instituted by ========== Tribal Employees Welfare Association represented by its Secretary seeks to call in question the inaction of the respondents in not initiating any action against the respondents 4 and 5 under the Andhra Pradesh Scheduled Areas Land Transfers Act, 1970 in view of the alienation of the immovable property that took place on 17.4.2002. According to the learned counsel for the petitioner, Rule 7 of the Andhra Pradesh Schedule Areas Land Transfer Rules, 1969 accords him the right to make a representation and therefore, the petitioner Association had

submitted its representation on 26.9.2007 and followed it up with another representation on 29.10.2007 and since no action has promptly followed from the respondents 1 to 3, the present writ petition has been instituted. It is appropriate at this stage to notice the Rule 7 (1) as under:

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A reading of the above unmistakably discloses that the Agent to the Government or the Agency Divisional Officer or the Officer referred to under sub Rule (3) receives the application from any one interested and the action contemplated thereunder has to follow. It is therefore manifestly clear that the application has got to be received from "any one interested". The writ petitioner is a Tribal Employees Welfare Association. There is no material on record to disclose as to whether it is a registered Association at all or not. The objectives for which the said Association has been brought about are not available on record. It does not even disclose that it is a "person interested" in espousing the cause for which the action is contemplated under rule 7. Obviously, the writ petitioner is using the platform of this Court for scaring the respondents 4 and 5 to succumb to its wishes. Such attempts should not be allowed as it amounts to abuse of the process of this Court. This can be gazed from the fact that the transfer of land that had place on 17.4.2002 has not been objected to till the end of September, 2007 and for the first time, the objection is sought to be raised in the month of September, 2007 because of grant of permission for construction of a building on the land in question. Unless the petitioner demonstrates its bonafides and that it falls within the four corners of the expression "person interested", it could not have complained of the inaction on the part of the respondents 1 to 3 either in not entertaining the representation said to have been submitted by it

on 26.9.2007 for the first time or that the respondents 1 to 3 are not prompt in initiating the action required. This apart, there is no explanation anywhere as to why for over five and half years, the issue has not been raised. It leaves a suspicion that so long as the writ petitioner Association was getting in good humour by the respondents 4 and 5 either jointly or individually, the land transfer was not found to be objectionable and suddenly the land transfer has become objectionable in September, 2007. The writ petitioner has not disclosed any material about the sources of its funding and also the sources for it to spend on this litigation. One can reasonably infer that it had been receiving aid from some sources and when prospects of receiving such aid is either receding or stopped, it is seeking to abuse the process of this Court. For these reasons, I consider that the writ petitioner Association cannot answer the description of "person interested" as spelt out in Rule 7 and hence, it cannot complain of the inaction on the part of the respondents in not initiating the action pursuant to its complaint dated 26.9.2007.

This apart, it is not in dispute that the writ petitioner has submitted its representation for the first time on 26.9.2007, fairly a month has passed by. It cannot complain on the inaction on the part of the respondents 1 to 3 for not having initiated in less than six weeks of time.

For all these reasons, the writ petition is devoid of merits and it is accordingly, dismissed at the admission stage. No costs.